



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/595,473 06/16/00 SIMMONS

F 99-1629

EXAMINER
----------

PM82/0829

KAARDAL & ASSOCIATES PC  
ATTN IVAR M KAARDAL  
CIRCLE-SUITE 250  
3500 SOUTH FIRST AVENUE  
SIOUX FALLS SD 57105-5807

SHAW, E ART UNIT	PAPER NUMBER
---------------------	--------------

3644  
DATE MAILED:

08/29/01

3

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	<b>Application No.</b> 09/595,473	<b>Applicant(s)</b> SIMMONS, FRANCES L.	
	<b>Examiner</b> Elizabeth A Shaw	<b>Art Unit</b> 3644	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 9 is/are rejected.
- 7) ☒ Claim(s) 2, 4-8, 10 and 11 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- |   |  |
|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> | 20) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3644

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al (PTO-1449-2 5,651,332) in view of Fife et al (5,000,116). Moore et al show an interactive pet device comprising a first plate 3 having top and bottom sides, a second plate 1 having top and bottom surfaces and a side wall 2 having a first and second end, the first end coupled to the top surface of the second plate 1 and the second surface coupled to the bottom side of the first plate 3. The pet device also having an elongate flexible member 7 where a toy 11 is secured to the free end. The top plate 3 also having a cushion covering it. Fife et al show a pet bed having a first plate/cushion 20 and a second plate/cushion 40, the plate separated by a rib 30. The rib 30 is held upright by a plurality of rib inserts 32 or posts. With respect to claim 1, it would have been obvious to one skilled in the art to hang the device of Moore et al with more than one pet toy to offer the pet a variety of amusements. With respect to claim 1, to use the multiple posts of Fife et al in place of the sidewall of Moore et al would have been obvious to one skilled in the art wishing to allow the pet choices of where it wishes to enter and exit the device.

Art Unit: 3644

With respect to claim 9, to attach the toy of Moore et al to a biasing means or spring would have been obvious to one skilled in the art wishing to create movement more attractive to the pet.

### *Allowable Subject Matter*

Claims 2, 4-8, 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 12 is allowed.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Included for further reference on pet toys and devices are: Neumann (3,989,008), Haynes et al (5,072,694), Boshears (5,579,725), Caldwell (5,860,389) and Hann (5,881,679).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A Shaw whose telephone number is 703-308-1853. The examiner can normally be reached on M-Th 7:30-5:00.

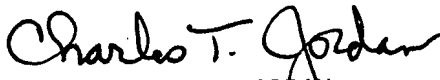
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703-306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-7687 for After Final communications.

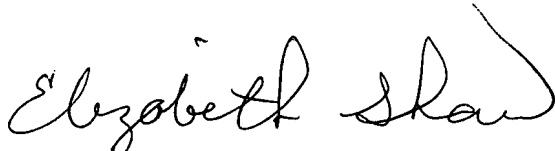
Application/Control Number: 09/595,473

Page 4

Art Unit: 3644

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

  
CHARLES T. JORDAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

  
Elizabeth Shaw  
August 24, 2001